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PATENT

Docket No. 150.01150103

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Gurtej S. SANDHU) Group Art Unit: 1743
Serial No.: 10/771,043)
Confirmation No.: 1538) Examiner: Yelena G. Gakh
Filed: February 3, 2004)
For: DETECTION DEVICES, METHODS AND SYSTEMS FOR GAS PHASE
MATERIALS

RESPONSE

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The following remarks are submitted in response to the Office Action mailed August 10, 2004. Applicants respectfully request reconsideration of the above-identified Application in which claims 42-87 remain pending.

Priority

The Office Action asserts that a priority date based on U.S. Patent No. 6,689,321 (U.S. Patent App. No. 10/266,797) cannot be granted for this Application because U.S. Patent No. 6,689,321 "issued prior to the filing date of the instant application", and thus co-pendency between this Application and U.S. Patent App. No. 10/266,797 is missing. Applicant respectfully traverses this finding.

U.S. Patent No. 6,689,321 issued on February 10, 2004, while this Application was filed February 3, 2004. Thus, the required co-pendency did, in fact, exist.

For at least this reason, Applicant respectfully submits that the priority date of August 31, 2000 as claimed in the Application must be granted under 35 U.S.C. §120.

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Information Disclosure Statement

Applicant submitted an Information Disclosure Statement on April 29, 2004 and a Supplemental Information Disclosure Statement on June 16, 2004. Copies of these forms attached to the Office Action show that the Foreign Patent Documents on the April 29, 2004 form and the U.S. Patent Document of the June 16, 2004 form were not initialed as having been considered by the Examiner. For the Examiner's convenience, a copy of each Form 1449 is attached herewith. Consideration of each of the documents listed in these forms is respectfully requested. Applicant further requests the Examiner to initial each reference as having been considered and to return the forms to the Applicant with the next Office communication.

Double Patenting Rejection

Claims 42-64 and 65-87 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-56 of U.S. Patent No. 6,479,297 and claims 1-28 of U.S. Patent No. 6,689,321. Upon an indication of otherwise allowable subject matter and in the event that this rejection is maintained, Applicant will provide an appropriate response.

The 35 U.S.C. §103 Rejection**Blalock (U.S. Patent Pub. No. 2003/0138958 A1)**

Claims 42-87 were rejected under 35 U.S.C. §103(a) as being obvious in view of Blalock (U.S. Patent Pub. No. 2003/0138958 A1). Applicant respectfully traverses this rejection.

As discussed above, the proper effective filing date for this Application is August 31, 2000. This Application is a continuation of application U.S. Patent App. No. 10,266,797, filed on October 8, 2002 (issuing as U.S. Patent No. 6,689,321), which is a continuation of application U.S. Patent App. No. 09/652,634, filed on August 31, 2000 (issuing as U.S. Patent No. 6,479,297). Blalock, in contrast, published on June 24, 2003, almost two years after the effective filing date of the present application.

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As a result, Blalock could not constitute prior art under any section of 35 U.S.C. § 102 other than § 102(e). Applicant, however, respectfully submits that Blalock also does not constitute valid prior art under § 102(e) for an obviousness rejection under 35 U.S.C. § 103(c) because both the subject matter described in Blalock and the invention claimed in this Application were, at the time the present invention was made, commonly owned by Micron Technology, Inc. Evidence of the common ownership can be found in the assignment document submitted with the present application at filing and in the assignment document recorded at Reel 010217, Frame 0840 which assigns the rights in US. Application No. 09/388,286 (published as U.S. Patent Pub. No. 2003/0138958 A1).

As a result, Applicant respectfully submits that 35 U.S.C. §103(c) is applicable and precludes Blalock from forming the basis for an obviousness rejection.

For at least these reasons, Applicant respectfully submits that claims 42-87 are patentable over Blalock. Reconsideration and withdrawal of the rejection of these claims are respectfully requested.